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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/715,601	11/17/2003	Kuniaki Arakawa	14470.0020US01	4884
23552	7590	03/18/2005	EXAMINER	
MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			CRANSON JR, JAMES W	
			ART UNIT	PAPER NUMBER
			2875	
DATE MAILED: 03/18/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

10/715,601

Applicant(s)

ARAKAWA ET AL.

Examiner

James W. Cranson

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 3, 4, 7, 9-14 is/are rejected.
- 7) ☒ Claim(s) 5, 6, 8 and 15 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>3/5/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 7, 11, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 6,793,384 to Bans. A motorcycle tail lamp structure that uses light emitting diodes as light source and has the stop lamp below the position lamp is disclosed by Ban et al.

Regarding independent claim 1 and claim 11 according to claim 10,

A tail lamp for a vehicle (40, figure 3), comprising:

a position lamp (47), and

a stop lamp (48), stop lamp below position lamp (column 6, 10-16), stop lamp is V-shaped LED array opposite ends of V-shaped are higher than central portion of V-shape.

Bans discloses the claimed invention except for having his stop lamp LED array in a V-shape. It would have been obvious to one of ordinary skill in the art at the time that the invention was made to have the stop light LED array of Bans in a V-shape because it has been held that lacking any criticality, changing the shape or form of prior art does not make the claimed invention patentable over that prior art (*In re Dailey*, 149, USPQ 47 [CCPA 1976]).

Regarding claims 2, according to claim 1, and claim 12 according to claim 11

Bans discloses that his stop lamp LED array is disposed in plural stages (column 6, lines

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23-27).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 3,4 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by USPN

5,707,130 to Zwick et al. A tail lamp structure for a vehicle that uses light emitting diodes as light source and has the stop lamp below the position lamp is disclosed by Zwick et al

Regarding claim 3,

Zwick discloses a tail lamp for a vehicle (figure 2, column 2, lines 31-34) comprising
a base member attached to a rear portion of a vehicle (figure 2, column 2, lines 31-34)
a reflector provided at an upper portion of the base member (reflectors 4, 8,21,23)
a position lamp(26) attached to the reflector (reflectors 4, 8,21,23)
a stop lamp (27) at lower portion (figure 2 shows stop light at bottom and comprising
a plurality of LEDs (column 4, lines 16-26, 52-57) and
a lens for covering position lamp and stop lamp (3)

Regarding claim 4, according to claim 3,

Zwick discloses base member attached to rear portion of vehicle, (column 4, lines 26-33)

Regarding claim 14, according to claim 3,

Zwick discloses that the position lights are LEDs

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 9 and 10 are rejected under 35 U.S.C. 102(a) as being anticipated by USPN 6,793,384 to Ban et al. A motorcycle tail lamp structure that uses light emitting diodes as the light source and has the stop lamp below the position lamp is disclosed by Ban et al.

Regarding claim 9

A tail lamp for a vehicle (40, figure 3), comprising:

A base member attached to a rear portion of a vehicle body (figure 3, column 5, lines 30-64);

a reflector (53, figures 9,10) provided at an upper portion of the base member; and
means for providing luminance (LEDs, 50,51).

Regarding claim 10,

Ban discloses that the means for providing luminance are stop and position lamps (column 6, lines 10-20).

Regarding claim 7, according to claim 1,

Bans discloses that his position lamp is formed of LEDs (50).

Claim Rejections - 35 USC § 103

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 6,793,384

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to Bans in view of USPN 5,707,130 to Zwick. Bans does not disclose a lens adhered to base member for covering position and stop lamps. Zwick in figure 1 teaches having a lens adhered to base member for covering position and stop lamps. It would be obvious to one of ordinary skill in the art to provide Bans with a lens as taught by Zwick. The reason is that a lens is needed to protect the light emitting elements from the weather and dirt

Allowable Subject Matter

Claims 5,6,8, and 15 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims

The following is a statement of reasons for the indication of allowable subject matter:

Claim 5, according to claim 3, ads that LEDs on a board are arranged in stages from upper to lower and forwardly placed to vehicle body from upper to lower portion.

Claim 6, according to claim 3, ads that the lens is divided into lens for position lamp and lens for stop lamp in V-shape.

Claim 8, according to claim 1, ads that brightness varies with amount of current provided.

Claim 15, according to claim 3, ads that brightness varies with amount of current provided.

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Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure are USPN 4,733,335 to Serizawa et al., USPN 5,406,465 to Farchione, USPN 6,053,626 to Zagrodnik et al., and USPN 6,371,636 to Wesson.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James W. Cranson whose telephone number is 571-272-2368.

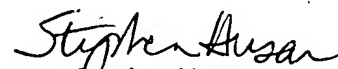
The examiner can normally be reached on Mon-Fri 8:30A.M.- 5:00P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandy O'Shea can be reached on 571-272-2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent may Application Information Retrieval (PAIR) system. Status information for published be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>.

Should you have questions on access to the Private system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).




Stephen Husar
Primary Examiner